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MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: *for* Christian Marsh *FPJ*
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Review: Certain Circular Welded
Non-Alloy Steel Pipe from Mexico

SUMMARY

In response to requests by interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on certain circular welded non-alloy steel pipe (steel pipe) from Mexico. This administrative review covers eight companies: Conduit S.A. de C.V. (Conduit); Ternium Mexico, S.A. de C.V. (Ternium); Tuberia Nacional, S.A. de C. V. (TUNA); Lamina y Placa Comercial, S.A. de C.V. (Lamina);¹ Mueller Comercial de Mexico, S. de R.L. de C.V. (Mueller); PYTCO, S.A. de C.V. (PYTCO); Productos Laminados de Monterrey, S.A. de C.V. (Productos Laminados); and Prolamsa, Inc. The Department selected one mandatory respondent for examination: Productos Laminados.² The period of review (POR) is August 1, 2012, through July 31, 2013. We preliminarily find that Productos Laminados made sales at prices below normal value (NV) during the POR. We are also rescinding this review with respect to Conduit, TUNA, Lamina, Ternium, Mueller, and PYTCO because all requests for review of these companies were timely withdrawn.³

¹ While petitioner requested a review of TUNA, the Department has determined that Lamina is the successor-in-interest to TUNA, effective December 30, 2010. See *Notice of Final Results of Antidumping Duty Changes Circumstances Review: Certain Circular Welded Non-Alloy Steel Pipe From Mexico*, 75 FR 82374 (December 30, 2010).

² See the Memorandum from Davina Friedmann (Hashmi) to Richard Weible entitled, "Administrative Review of the Antidumping Duty Order on Certain Circular Welded Non-Alloy Steel Pipe from Mexico: Respondent Selection Memorandum," dated March 20, 2014 (Respondent Selection Memorandum).

³ While the Department initiated an administrative review of Productos Laminados and Prolamsa, Inc. separately, record information indicates that Prolamsa, Inc. is a wholly-owned U.S. subsidiary of Productos Laminados, and is



BACKGROUND

On November 2, 1992, the Department published the AD order on certain circular welded non-alloy steel pipe from Mexico.⁴ On November 1, 2013, the Department published a notice of opportunity to request an administrative review of the order.⁵ On November 29, 2013, Lamina⁶ requested an administrative review of itself. On December 2, 2013, Productos Laminados and Prolamsa, Inc., requested administrative reviews of themselves. On December 2, 2013, the petitioner Wheatland Tube Company (Wheatland) requested administrative reviews of the following companies: PYTCO; Lamina; Mueller; and Ternium. On December 2, 2013, domestic interested party United States Steel Corporation (U.S. Steel) requested administrative reviews of the following companies: Mueller, TUNA and its successor-in-interest Lamina, Ternium, PYTCO, and Conduit.

On December 30, 2013, the Department published in the *Federal Register* its notice of initiation of administrative review of steel pipe from Mexico, which included eight exporters or producers for which we received timely requests.⁷ The *Initiation Notice* stated that, in the event the Department limits the number of respondents for individual examination in this administrative review, the Department intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR. On January 28, 2014, the Department issued to all parties with Administrative Protective Order (APO) access entry data from CBP and invited interested parties to comment on these data.⁸

On February 3, 2014, the Department received a letter from Mueller stating that it “was not the exporter of any entries of subject merchandise to the United States during the period of review, nor did it know or have reason to know of any exports, sales, or entries of the subject merchandise to the United States during the period of review.” Mueller asked that the Department rescind the administrative review with respect Mueller (Mueller Certification of No Shipments). On February 6, 2014, the Department received a letter from Lamina and TUNA stating that Lamina and TUNA “did not have any exports, sales, or entries of subject merchandise during the above-referenced period of review.”⁹

an importer, and not a producer, of subject merchandise.

⁴ See *Notice of Antidumping Duty Orders: Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea (Korea), Mexico, and Venezuela and Amendment to Final Determination of Sales at Less Than Fair Value: Certain Welded Non-Alloy Steel Pipe from Korea*, 57 FR 49453 (November 2, 1992) (*Antidumping Duty Order*).

⁵ See *Antidumping or Countervailing Duty Order, Finding, or Suspension Agreement; Opportunity to Request Administrative Review*, 78 FR 65612 (November 1, 2013).

⁶ LYPCSA is an abbreviation for Lamina y Placa Comercial, S.A. de C.V., by which the company refers to itself in its submissions.

⁷ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 79393 (December 30, 2013) (*Initiation Notice*).

⁸ See memorandum from Davina Hashmi and Mark Flessner to the File entitled, “Certain Circular Welded Non-Alloy Steel Pipe from Mexico: Placement on the Record of U.S. Customs and Border Patrol Information for 2012-2013 Period of Review,” dated January 28, 2014 (CBP Information Memorandum).

⁹ See letter from Lamina and TUNA to the Secretary of Commerce entitled, “Circular Welded Non-Alloy Steel Pipe and Tube from Mexico: Notice of No Sales and Withdrawal of Request for Review,” dated February 6, 2014 (Lamina and TUNA Notice of No Sales).

On February 7, 2014, the Department received comments from Productos Laminados and Prolamsa, Inc., wherein they claimed that they should be selected as a mandatory respondent on a collective basis. On February 25, 2014, the Department received a letter from Ternium which stated that, during the POR, “neither Ternium nor its affiliates had exports of subject pipe to the United States, sales of subject pipe to the United States, or entries of subject pipe into the United States.”¹⁰ Ternium requested the Department rescind the administrative review with respect to Ternium.

As noted above, the Department stated in its initiation of this review that it intended to rely on CBP data to select respondents if respondent selection was considered appropriate.¹¹ For the purpose of potential respondent selection, we made a data inquiry to CBP and placed certain documents from this data query on the record.¹² For further discussion of these documents, *see* the “No Shipments Claims” section below. The Department selected Productos Laminados as the mandatory respondent and issued its standard AD questionnaire to Productos Laminados on February 11, 2014.¹³

On March 27, 2014, petitioner Wheatland timely withdrew its request for administrative review in its entirety.¹⁴ On March 31, 2014, U.S. Steel timely withdrew its request for all companies for which it had requested an administrative review.¹⁵

Productos Laminados and Prolamsa, Inc. are the only remaining companies for which administrative reviews were requested and which were not covered by the requests for withdrawal. Productos Laminados responded to the Department’s initial questionnaire and subsequent supplemental questionnaires, as identified in the Preliminary Analysis Memorandum.¹⁶

Scope of the Order

The products covered by the order are circular welded non-alloy steel pipes and tubes, of circular cross-section, not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, beveled end, threaded, or threaded and coupled). These pipes and tubes are generally known as standard pipes and tubes and are intended for the low pressure conveyance of water, steam, natural gas, and other liquids and gases in plumbing and heating systems, air conditioning units, automatic sprinkler systems, and other related uses, and generally meet ASTM A-53 specifications.

¹⁰ *See* letter from Ternium to the Secretary of Commerce entitled, “Certain Circular Welded Non-Alloy Steel Pipe from Mexico: Notice of No Sales,” dated February 25, 2014 (Ternium Notice of No Sales).

¹¹ *See Initiation Notice.*

¹² *See* CBP Information Memorandum.

¹³ *See* the Respondent Selection Memorandum.

¹⁴ *See* letter from Wheatland to the Secretary of Commerce entitled, “Circular Welded Non-Alloy Steel Pipe from Mexico/Withdrawal of Request for Administrative Review,” dated March 27, 2014 (Wheatland Withdrawal Letter).

¹⁵ *See* letter from U.S. Steel to the Secretary of Commerce entitled, “Circular Welded Non-Alloy Steel Pipe from Mexico,” dated March 31, 2014 (U.S. Steel Withdrawal Letter).

¹⁶ *See* the Department’s Memorandum to Robert James, dated December 1, 2014: Productos Laminados de Monterrey S.A. de C.V. and Prolamsa, Inc. – Analysis Memorandum for the Preliminary Results of the 2012/2013 Antidumping Duty Administrative Review of Circular Welded Non-Alloy Steel Pipe from Mexico, dated December 1, 2014 (Preliminary Analysis Memorandum).

Standard pipe may also be used for light load-bearing applications, such as for fence tubing, and as structural pipe tubing used for framing and support members for reconstruction or load-bearing purposes in the construction, shipbuilding, trucking, farm equipment, and related industries. Unfinished conduit pipe is also included in these orders. All carbon steel pipes and tubes within the physical description outlined above are included within the scope of the order, except line pipe, oil country tubular goods, boiler tubing, mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished conduit. Standard pipe that is dual or triple certified/stenciled that enters the U.S. as line pipe of a kind used for oil or gas pipelines is also not included in the order.

The merchandise covered by the order and subject to this review are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings: 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, and 7306.30.5090. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Postponement of Preliminary Determination

The Department determined that it was not practicable to meet the deadline for the preliminary results of review within the statutory time frame of 245 days after the last day of the anniversary month for which this administrative review was requested. Therefore, in accordance with section 751(a)(3)(A) of the Tariff Act, as amended (the Act), the Department extended the deadline for the preliminary results of the instant administrative review by 120 days. Since the new deadline fell on a non-business day, in accordance with the Department's regulations, the revised deadline for the preliminary results of this administrative review is now December 1, 2014.¹⁷

No-Shipments Claims

As noted above, TUNA, Lamina, Ternium, and Mueller each submitted claims of no shipments during the POR.¹⁸ None of these statements is inconsistent with the data contained in the CBP Information Memorandum. No party submitted comments with respect to either the CBP Information Memorandum or any party's claim of no shipments. In accordance with our standard practice with claims of no shipment, the Department made additional inquiries to CBP for each of these companies. We received no information from CBP to contradict the results of our data queries and the claims made by these companies.

While it is the Department's practice to make a preliminary determination regarding no shipments claims, in this review, such determination is not necessary, given the withdrawal requests received, as discussed in the next section.

¹⁷ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Office VI, "Certain Circular Welded Non-Alloy Steel Pipe From Mexico: Extension of Deadline for Preliminary Results of Antidumping Duty," dated July 17, 2014.

¹⁸ Refer to the following submissions: Mueller Certification of No Shipments, Lamina and TUNA Notice of No Sales, Ternium Notice of No Sales.

Partial Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole, or in part, if a party that requested a review withdraws the request within 90 days of publication of notice of initiation of the requested review. All requests for review by all parties, except those of Productos Laminados and Prolamsa, Inc.,¹⁹ were timely withdrawn by the 90-day deadline.²⁰ Accordingly, we are rescinding the administrative review of the AD order on steel pipe from Mexico covering the period November 1, 2012, through October 31, 2013, with respect to the following companies: Conduit, TUNA, Lamina, Ternium, Mueller, and PYTCO.

Duty Absorption

On January 29, 2014, Wheatland requested that the Department conduct a duty absorption inquiry with regard to Conduit, Lamina, Mueller, Productos Laminados, PYTCO, Ternium, and TUNA. Section 751(a)(4) of the Act provides for the Department, if requested, to determine during an administrative review initiated two or four years after publication of the order whether AD duties have been absorbed by the foreign producer or exporter if the subject merchandise is sold in the United States through an affiliated importer. *See also* 19 CFR 351.213(j). Because this review was not initiated at the two-year or four-year interval from publication of the AD order, a duty absorption inquiry is not authorized. *See Antidumping Duty Order.*

DISCUSSION OF METHODOLOGY

Comparisons to Normal Value

Pursuant 19 CFR 351.414(c)(1) and (d), we compared the constructed export price (CEP) to the normal value as described in the “Constructed Export Price” and “Normal Value” sections of this memorandum to determine whether Productos Laminados’ sales of steel pipe from Mexico were made in the United States at less than NV.

1. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average CEPs or export prices (EPs) (the average-to-average method (A-to-A)) unless the Secretary determines that another method is appropriate in a particular situation. In recent AD proceedings, the Department examined whether to use the average-to-transaction (A-to-T) method as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. In order to determine which comparison method to apply, in recent proceedings, the Department applied a “differential pricing” (DP) analysis for determining whether application of A-to-T comparisons is appropriate pursuant to 19

¹⁹ Prolamsa, Inc., made no entries of subject merchandise during the POR. *See* the Respondent Selection Memorandum” at 5.

²⁰ Refer to the following submissions: Mueller Certification of No Shipments, Lamina and TUNA Notice of No Sales, Ternium Notice of No Sales, Wheatland Withdrawal Letter, and U.S. Steel Withdrawal Letter.

CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.²¹ The Department finds the DP analysis used in recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this AD investigation.²² The Department intends to continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the A-to-A method in calculating weighted-average dumping margins.

The DP analysis used in this preliminary determination requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differ significantly among purchasers, regions, or time periods.²³ If such a pattern is found, then the DP analysis evaluates whether such differences can be taken into account when using the A-to-A method to calculate the weighted-average dumping margin. The DP analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the customer codes as reported. Regions are defined using the reported destination code (*i.e.*, zip codes), which are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POI being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region, and time period, that the Department uses in making comparisons between EP and NV for the individual dumping margins.

In the first stage of the DP analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d*

²¹ See, e.g., *Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products From Japan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 78 FR 69371 (November 19, 2013), and accompanying Preliminary Decision Memorandum.

²² See, e.g., *Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 78 FR 58273 (September 23, 2013), and accompanying Issues and Decision Memorandum at Comment 5; see also *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2011-2012*, 78 FR 40692 (July 8, 2013); *Certain Activated Carbon From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 26748 (May 8, 2013); *Certain Steel Threaded Rod From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 21101 (April 9, 2013) (*Steel Threaded Rod*); *Polyester Staple Fiber From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 17637 (March 22, 2013) (*Polyester Staple Fiber*).

²³ As noted above, the DP analysis has been utilized in recent AD investigations and several recent AD administrative reviews to determine the appropriate comparison methodology. See, e.g., *Steel Threaded Rod; Circular Welded Carbon Steel Pipes and Tubes From Thailand: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 21105 (April 9, 2013); *Polyvinyl Alcohol From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2010-2012*, 78 FR 20890 (April 8, 2013); and *Polyester Staple Fiber*.

coefficient is used to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large. Of these thresholds, the large threshold (*i.e.*, 0.8) provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales were found to pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for 66 percent or more of the value of total sales, then the identified pattern of EPs that differ significantly supports the consideration of the application of the A-to-T method to all sales as an alternative to the A-to-A method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an A-to-T method to those sales identified as passing the Cohen's *d* test as an alternative to the A-to-A method, and application of the A-to-A method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the A-to-A method.

If both tests in the first stage (*i.e.*, the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of EPs (or CEPs) that differ significantly such that an alternative comparison method should be considered, then in the second stage of the DP analysis, we examine whether using only the A-to-A method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the A-to-A method only. If the difference between the two calculations is meaningful, then this demonstrates that the A-to-A method cannot account for differences such as those observed in this analysis and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if: 1) there is a 25 percent relative change in the weighted-average dumping margin between the A-to-A method and the appropriate alternative method where both rates are above the *de minimis* threshold, or 2) the resulting weighted-average dumping margin moves across the *de minimis* threshold.

Interested parties may present arguments and justifications in relation to the above-described DP approach used in this preliminary determination, including arguments for modifying the group definitions used in this proceeding.

2. Results of the DP Analysis

For Productos Laminados and its affiliates, based on the results of our DP analysis, if the value of sales of purchasers, regions, and time periods that passes the Cohen's *d* test accounts for 66 percent or more of the value of total sales, then the identified pattern of CEPs that differ

significantly supports the consideration of the application of the A-to-T method as an alternative to the A-to-A method. For this respondent, the Department finds that 73.58 percent of its CEP sales confirm the existence of a pattern of CEPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. Moreover, our analysis of the application of the A-to-T alternative method to respondent's CEP sales, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the A-to-A method only. Accordingly, the Department has determined to use the A-to-T alternative method in making comparisons of CEP and NV for this respondent.

Product Comparisons

In accordance with section 771(16) of the Act, we compared products produced and sold in the U.S. and home markets by Productos Laminados/A4C²⁴ and its affiliated reseller Prolamsa, Inc., on the basis of the comparison market product, which was either identical or most similar in terms of the physical characteristics to the product sold in the United States. In the order of importance, the physical characteristics were grade, nominal pipe size, wall thickness, coating, and end finish.

Date of Sale

Section 351.401(i) of the Department's regulations states that, normally, the Department will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. For purposes of this administrative review, the Department relied upon the reported invoice date as the date of sale.

Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP.²⁵ The LOT for NV is based on the starting prices of sales in the home market or, when NV is based on CV, those of the sales from which we derived selling, general, and administrative expenses and profit.²⁶ In this administrative review, Productos Laminados made only CEP sales to the United States.

To determine if the home-market sales are made at a different LOT than CEP sales, we examined stages in the marketing process and the selling functions performed along the chain of distribution between the producer and the unaffiliated customer.²⁷ If home-market sales are at a different LOT, as manifested in a pattern of consistent price differences between the sales on which NV is based and home-market sales made at the LOT of the export transaction, and the

²⁴ See Memorandum from Davina Friedmann to Richard Weible, Office Director, AD/CVD Operations Office VI, entitled, "Affiliation and Collapsing Memorandum," dated December 1, 2014 (Affiliation and Collapsing Memorandum).

²⁵ See also section 773(a)(7)(A) of the Act.

²⁶ See 19 CFR 351.412(c)(1)(iii).

²⁷ See 19 CFR 351.412(c)(2).

difference affects price comparability, then we make a LOT adjustment to NV under section 773(a)(7)(A) of the Act and 19 CFR 351.412.²⁸

In implementing these principles in this review, we examined information obtained from Productos Laminados/A4C regarding the marketing stage(s) involved in comparison market (CM) and U.S. sales, including a description of the selling activities performed for each channel of distribution. Productos Laminados/A4C reported three channels of distribution for CM sales based on the point of shipment to the unaffiliated customer. According to Productos Laminados/A4C, the following channels of distribution are present in the CM: (1) “shipment point to the unaffiliated customer is the plant of Productos Laminados;” (2) “shipment point to the unaffiliated customer is one of Productos Laminados’ distribution warehouses;” and (3) “shipment to the unaffiliated customer is an affiliated reseller’s warehouse...”²⁹ While Productos Laminados/A4C re-categorized its channels of distribution from two channels to three between its two supplemental questionnaire responses, dated June 5, 2014, and August 6, 2014, this re-categorization did not serve to provide further clarity of its selling functions. Further, Productos Laminados/A4C did not update its narrative description of selling functions, nor did it provide a revised selling-functions chart based on the three channels of distribution. Since we did not have selling functions delineated for the three channels of distribution reported in the August 6, 2014, supplemental questionnaire response, we utilized information provided by Productos Laminados/A4C on its selling activities reported in an earlier supplemental questionnaire response.³⁰

In its submission, dated June 5, 2014, along with the selling-functions description, Productos Laminados/A4C included a chart of selling activities that specified the level of each activity performed.³¹ We evaluated the two channels of distribution, *i.e.*, direct sales to OEM and distributor customers (Channel 1A) and warehouse sales (Channel 2A), provided in the narrative description of the respondent’s questionnaire response. In this submission, Productos Laminados/A4C reported the following selling activities associated with sales made through these two channels of distribution in the CM: (1) promotion and marketing, (2) sales forecasting, (3) direct sales personnel, (4) sales/marketing support, (5) freight and delivery arrangements, (6) product defect chain-related services, (7) order processing and invoicing technical service support, (8) packing, (9) pay commission, (10) provide after-sales services provide freight and delivery support, (11) provide post-sale warehousing, and (12) inventory maintenance.³² Productos Laminados/A4C claimed differences in selling activities associated with inventory maintenance among the CM channels of distribution.

Inventory maintenance was the one selling activity reported by Productos Laminados/A4C as having the greatest difference in the level of activity performed, *i.e.*, low intensity versus high

²⁸ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61733 (November 19, 1997).

²⁹ See *Circular Welded Non-Alloy Steel Pipe from Mexico: Response of Prolamsa to the Department’s Second Supplemental Questionnaire*, dated August 6, 2014 (SQR 2), at p. 5.

³⁰ See SQR 2 at Exhibit 10.

³¹ See Prolamsa’s response to the Department’s first supplemental section A-C questionnaire (Prolamsa’s First Supplemental Response), dated June 5, 2014, at 7 and Exhibit SQ-10.

³² See *Circular Welded Non-Alloy Steel Pipe from Mexico: Sections B and C Responses*, dated June 5, 2014 (SQR 1 at 6-7, and at Exhibit 10).

intensity, between the two CM channels of distribution. There were four other selling activities that Productos Laminados/A4C reported as having different levels of selling activity, namely sales forecasting, product defect claim-related services, technical service support, and after-sales services. However, based on information contained in the questionnaire response, we found that the reported differences in the level of selling functions performed were small, ranging from only a low level of intensity to a medium level of intensity. Accordingly, we do not find these differences in selling functions to constitute differences in levels of trade. We also do not find that the variation associated with inventory maintenance, even when combined with the differences in other selling activities, as mentioned above, to be substantial enough such that they meet the regulatory requirement of being made at “separate marketing stages.” Consequently, regardless of whether Productos Laminados/A4C reported two or three channels of distribution in the CM, we found that the CM channels of distribution constituted only one level of trade.

The starting price for CEP sales was based on sales made by or through the U.S. affiliated reseller, Prolamsa, Inc., to unaffiliated customers through two distinct channels of distribution, as reported in the respondent’s submission, dated June 5, 2014.³³ One channel represented sales made by Prolamsa, Inc., from its U.S. inventory to unaffiliated customers in the United States (Channel 1).³⁴ The second channel represented sales made from Productos Laminados in the CM to unaffiliated customers through Prolamsa, Inc. (Channel 2).³⁵ Productos Laminados reported the same selling functions for both U.S. channels of distribution as those reported for both CM channels of distribution.³⁶ For Channels 1 and 2, we found they differed from each other with respect to inventory maintenance, but the other selling functions were the same among these two channels of distribution. The level of performance associated with inventory maintenance differed between a low level versus high level of intensity between the two channels of distribution. Given that inventory maintenance served as the only selling function with a difference in the level of activity performed, we do not find the difference associated with this selling activity between the two channels of distribution to meet the regulatory standard of a “separate marketing stage.” Accordingly, we preliminarily determined that only one level of trade exists.

Comparing the CM, or normal value, level of trade to the U.S. level of trade, we examined the one selling function that was reported as having the greatest difference in the level of intensity – inventory maintenance. Productos Laminados and its U.S. affiliate sold only ASTM grade A513, a unique and specialized, made-to-order product, in the United States during the instant POR, consistent with respondent’s U.S. sales database.³⁷ Additionally, Productos Laminados/A4C sold multiple grades in the CM (A500, A787, and A513), of which a significant amount consisted of grade A513 pipe.³⁸ According to Productos Laminados, although some mechanical tubing may be held in inventory for purposes of “spot sales,” made-to-order products are not typically stored in inventory. Further, while some of these products may be held in

³³ See Prolamsa’s First Supplemental Response, dated June 5, 2014, at 6-7.

³⁴ Productos Laminados reported in its Section A original questionnaire response, dated March 20, 2014, at 7-8, that A4C did not sell subject merchandise to the U.S. during the instant review period.

³⁵ See Section A original questionnaire response, dated March 20, 2014, at p. A-13.

³⁶ See SQR 1 at Exhibit 10.

³⁷ See SQR 1 at 8.

³⁸ See Department’s preliminary CM program that contains business proprietary information specific to the amount of A513 sold in the CM.

inventory, albeit for a short period of approximately two or three weeks, as reported by Productos Laminados/A4C, the need to carry such products is driven by demand for that product. This generally occurs where a particular customer may order a specialized, made-to-order product at regular intervals that Productos Laminados can forecast and have ready for that customer.

Given that the type of product and the sales practice are generally the same for most of the sales in both the CM and U.S. markets, we preliminarily determine that the selling activities with respect to its CM and U.S. sales are not sufficiently different to constitute separate levels of trade. Therefore, we did not make a LOT adjustment because all price comparisons are at the same LOT and an adjustment pursuant to section 773(a)(7)(A) of the Act is not appropriate. Additionally, having determined that the LOT in the CM matched the LOT of the CEP sales transactions, and thus, does not constitute a more advanced stage of distribution than the level of trade of U.S. sales, we did not make a CEP offset to normal value.

Constructed Export Price

The Department based the price of U.S. sales of subject merchandise by Productos Laminados and Prolamsa, Inc., on CEP, as defined in section 772(b) of the Act, because the first sale to an unaffiliated purchaser occurred after importation of subject merchandise into the United States, or the U.S. affiliate made the U.S. sale to the first unaffiliated purchaser. We calculated CEP based on price to unaffiliated purchasers in the United States. We made deductions for any movement expenses in accordance with section 772(c)(2)(A) of the Act. In accordance with section 772(d)(1) of the Act, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, which includes direct selling expenses and indirect selling expenses. We also made an adjustment for profit in accordance with section 772(d)(3) of the Act. There was no cost associated with further manufacturing within the meaning of section 772(d)(2) of the Act, and therefore we made no such adjustment.

Normal Value

Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether respondent's sales of the subject merchandise from Mexico to the United States were made at less than NV, the Department compared the CEP to the NV, as described in the "Constructed Export Price" and "Normal Value" sections of this memorandum.

1. Home Market Viability as Comparison Market

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating normal value (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of home market sales of foreign like product by Productos Laminados/A4C to the volume of U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Based on this comparison, we determined that Productos Laminados/A4C had a viable home market during the POR.

2. *Affiliation and Single Entity*

Section 771(33) of the Act, in pertinent part, identifies persons that shall be considered “affiliated” or “affiliated persons” as: (1) two or more persons directly or indirectly controlling, controlled by, or under common control with, any person (section 771(33)(F) of the Act); or (2) any person who controls any other person and such other person (section 771(33)(G) of the Act). Section 771(33) further stipulates that a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person, and the Statement of Administrative Action notes that control may be found to exist within corporate groupings.³⁹ The Department’s regulations at 19 CFR 351.102(b)(3) state that in determining whether control over another person exists within the meaning of section 771(33) of the Act, the Department will not find that control exists unless the relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product.

We examined record evidence to determine whether and the extent to which Productos Laminados was affiliated with A4C in accordance with section 771(33) of the Act. In questionnaire responses submitted to the Department, Productos Laminados specified that A4C is an affiliated producer, and that both Productos Laminados and A4C manufactured and sold steel pipe in the comparison market.⁴⁰ Productos Laminados provided additional information regarding its relationship with A4C that speaks to the nature of affiliation based on the level of common ownership and control, of which certain information is business proprietary in nature.⁴¹

In accordance with sections 771(33)(F) and (G) of the Act, we preliminarily find that there is evidence on the record that Productos Laminados and A4C are affiliated because of operational control or direction and that this control or direction has the potential to impact decisions concerning the production, pricing, and cost of the subject merchandise. We find that both companies engaged in the production and sales of the subject merchandise are under common control. For the full analysis of this determination, *see* the Affiliation and Collapsing Memorandum.

We next examined whether any of the affiliated companies should be considered a single entity for purposes of calculating a dumping margin. Section 19 CFR 351.401(f) of the Department’s regulations states that the Department will treat affiliated producers as a single entity where they have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities, and the Department concludes that there is a significant potential for the manipulation of price or production. Section 351.401(f) of the regulations further states that in identifying a significant potential for manipulation, the Department may consider factors including: (1) the level of common ownership; (2) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (3) whether operations are intertwined, such as

³⁹ *See* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc 103-316, Vol. 1, 103d Cong. (1994) (SAA) at 838 (stating that control may exist within the meaning of section 771(33) of the Act in the following types of relationships: (1) corporate or family groupings, (2) franchises or joint ventures, (3) debt financing, and (4) close supplier relationships in which either party becomes reliant upon the other).

⁴⁰ *See* Section A QR, at 4.

⁴¹ *See* Section A QR, at pgs. 9-11, and accompanying financial statements at Exhibits 12-14.

through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers. The *Preamble* to the final regulations clarifies how the Department should apply this section in its collapsing analysis, explaining that this list of factors is “non-exhaustive.”⁴² The *Preamble* states, however, that the Department must still find that the potential for manipulation of price and production is significant.⁴³ The Department has also previously explained its practice of collapsing affiliated companies:

Because the Department calculates margins on a company-by-company basis, it must ensure that it reviews the entire producer or reseller, not merely part of it. The Department reviews the entire entity due to its concerns regarding price and cost manipulation. Because of this concern, the Department normally examines the question of whether reviewed companies “constitute separate manufacturers or exporters for purposes of the dumping law.”⁴⁴

As explained above, we have preliminarily determined that Productos Laminados and A4C are affiliated; consequently, the first collapsing criterion has been satisfied. As to whether the companies have similar production facilities that would not require substantial retooling, Productos Laminados and A4C reported evidence that indicates that it would not require substantial retooling of the manufacturing facility in order to restructure manufacturing priorities because A4C also produces merchandise under review.⁴⁵ Additionally, the Department has previously collapsed affiliated producers and exporters when the remaining 19 CFR 351.401(f) criteria were satisfied.⁴⁶

Record information also indicates the sharing of management between Productos Laminados and A4C. Further, we preliminarily find that the operations of Productos Laminados and A4C are intertwined based on record evidence concerning the sharing of employees and sales information, and common involvement in production and pricing decisions, and shipment of merchandise to customers.⁴⁷ Therefore, in accordance with 19 CFR 351.401(f) and the Department’s practice,⁴⁸ we are treating Productos Laminados and A4C as a single entity for purposes of these preliminary results of review.

⁴² See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27345 (May 19, 1997) (*Preamble*).

⁴³ *Preamble*, 62 FR at 27345-6.

⁴⁴ See *Certain Fresh Cut Flowers From Colombia; Final Results of Antidumping Duty Administrative Reviews*, 61 FR 42833, 42853 (Aug. 19, 1996), citing *Final Determination of Sales at Less than Fair Value; Certain Granite Products from Spain*, 53 FR 24335, 24337 (June 28, 1988).

⁴⁵ See “Circular Welded Non-Alloy Steel Pipe from Mexico: Section A Response, dated March 4, 2014, at p. 4; see *Stainless Steel Butt-Weld Pipe Fittings From Italy: Preliminary Results of Antidumping Duty Administrative Review and Preliminary No Shipment Determination*, 76 FR 79651, 79652 (December 22, 2011) (finding that “the ownership, management, and operations of a producer and an affiliated exporter were so intertwined that management could switch the role of producer and seller between the two companies without substantial retooling of either company”), unchanged in *Stainless Steel Butt-Weld Pipe Fittings From Italy: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination*, 77 FR 24459 (April 24, 2012).

⁴⁶ See, e.g., *Stainless Steel Butt-Weld Pipe Fittings From Italy: Preliminary Results of Antidumping Duty Administrative Review and Preliminary No Shipment Determination*, 76 FR 79651, 79652 (December 22, 2011) (unchanged in *Stainless Steel Butt-Weld Pipe Fittings From Italy: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination*, 77 FR 24459 (April 24, 2012)).

⁴⁷ See *Affiliation and Collapsing Memorandum* at 6-7.

⁴⁸ See *Flowers from Colombia* (citing *Granite Products from Spain*), see also *Queen’s Flowers de Colombia v.*

Cost of Production

As noted in the Background section above, we received allegations from Petitioners that Productos Laminados made home market sales at prices below their cost of production (COP).⁴⁹ Based on our analysis of the allegation, we found that there were reasonable grounds to believe or suspect that Productos Laminados sales in the home market were made at prices below their COPs. Accordingly, on May 22, 2014, the Department initiated a sales-below-COP investigation of respondent's CM sales of steel pipe.⁵⁰

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product, plus an amount for general and administrative expenses, interest expenses, and comparison market packing costs.⁵¹ We examined the cost data and preliminarily determined that our quarterly cost methodology is not warranted. While we initially adjusted the data submitted by the respondent for purposes of the sales-below-cost allegation, given information on the record at that time,⁵² we have applied our standard methodology of using annual costs based on the data submitted in the respondents' supplemental questionnaire response, dated August 6, 2014.⁵³

2. Test of Comparison Market Sales Prices

With respect to each company, on a product-specific basis, pursuant to section 773(a)(1)(B)(i) of the Act, we compared the adjusted weighted-average COPs to the home market sales prices of the foreign like product, in order to determine whether the sale prices were below COP. For purposes of this comparison, we used COPs exclusive of selling and packing expenses. The prices for each respondent were net of billing adjustments, movement charges, direct and indirect selling expenses and packing expenses, where appropriate.⁵⁴

3. Results of the COP Test

Section 773(b)(1) provides that where sales made at less than the COP "have been made within an extended period of time in substantial quantities" and "were not at prices which permit recovery of all costs within a reasonable period of time" the Department may disregard such

United States, 981 F. Supp. 617, 622 (1997) (in which the Court of International Trade expressly affirmed the Department's authority to collapse affiliated parties for purposes of antidumping analysis).

⁴⁹ See Sales-below-cost allegation from Wheatland, dated April 29, 2014.

⁵⁰ See Memorandum to Richard Weible, AD/CVD Operations, Office 6, "Petitioner's Allegation of Home Market Sales at Prices Below the Cost of Production for Productos Laminados de Monterrey, S.A. de C.V.," dated May 22, 2014.

⁵¹ See "Test of Comparison Market Sales Prices" section, below, for treatment of comparison market selling expenses.

⁵² See Memorandum to Richard Weible, AD/CVD Operations, Office 6, "Petitioner's Allegation of Home Market Sales at Prices Below the Cost of Production for Productos Laminados de Monterrey, S.A. de C.V.," dated May 22, 2014.

⁵³ The sales-below-COP test included data related to both Productos Laminados/A4C.

⁵⁴ See Preliminary Analysis Memorandum.

sales when calculating NV. Pursuant to section 773(b)(2)(C)(i) of the Act, we did not disregard below-cost sales that were not made in “substantial quantities,” *i.e.*, where less than 20 percent of sales of a given product were at prices less than COP. We disregarded below-cost sales when they were made in substantial quantities, *i.e.*, where 20 percent or more of a respondent’s sales of a given product were at prices less than the COP and where “the weighted average per unit price of the sales . . . is less than the weighted average per unit cost of production for such sales.”⁵⁵ Finally, based on our comparison of prices to the weighted-average COPs for the POI, we considered whether the prices would permit the recovery of all costs within a reasonable period of time.⁵⁶ Therefore, for Productos Laminados/A4C, we disregarded below-cost sales of a given CONNUM of 20 percent or more and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.⁵⁷

Calculation of Normal Value Based on Comparison Market Prices

We based NV on the starting prices of Productos Laminados/A4C to unaffiliated home market customers. We made adjustments for differences in packing and for inland freight expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. *See* Preliminary Analysis Memorandum for further details.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the date of the U.S. sales as certified by the Federal Reserve Bank.

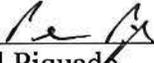
RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

✓

Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

1 DECEMBER 2014

Date

⁵⁵ See section 773(b)(2)(C)(ii) of the Act.

⁵⁶ See section 773(b)(2)(D) of the Act.

⁵⁷ See Preliminary Analysis Memorandum.